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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1943.

No. 795

THOMAS H. O'NEAL,
Petitioner and Appellant Below,

vs.

UNITED STATES OF AMERICA,
Respondent and Appellee Below.

PETITION FOR WRIT OF CERTIORARI

To the United States Circuit Court of Appeals for the Sixth Circuit,

and

BRIEF IN SUPPORT THEREOF.

JOHN J. HOOKER,
1106 Nashville Trust Bldg.,
Nashville 3, Tennessee,
Attorney for Petitioner and
Appellant Below.

B. H. HAGEY,
1206 Warner Building,
Nashville 3, Tennessee,
TYREE B. HARRIS III,
WALKER & HOOKER,
1106 Nashville Trust Bldg.,
Nashville 3, Tennessee,
Of Counsel.

ST. LOUIS LAW PRINTING CO., 415 North Eighth Street. CEntral 4477.

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PETITION FOR WRIT OF CERTIORARI

To the United States Circuit Court of Appeals for the Sixth Circuit.

To the Honorable Harlan F. Stone, Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States:

Your petitioner respectfully shows:

I.

SUMMARY STATEMENT OF THE MATTERS INVOLVED.

(1) The First and Second Counts of the information in this case charged the petitioner and appellant below with a violation of Title III, Section 2 (a) of the Second War Powers Act of 1942, approved March 27, 1942 (Public Law 507, Seventy-Seventh Congress, Second Session), and of the Revised Tire Rationing Regulations as amended; and the petitioner was convicted under both of said counts of the information, and sentenced for a period of six months confinement, to run concurrently on each count,

but fined the sum of One Hundred ($100) Dollars separately on each count (R. pp. 8-10, 15).

The first question involved is:

> Are Title III, Section 2 (a) of the Second War Powers Act of 1942, approved March 27, 1942 (Public Law 507, Seventy-Seventh Congress, Second Session), and the Revised Tire Rationing Regulations, as amended, unconstitutional and void?

(2) The Third Count of the information in this case charged the petitioner and appellant below with "a violation of Section IV (a) of the Emergency Price Control Act of 1942 and of Revised Price Schedule No. 66; and the petitioner was convicted on this count and sentenced for a period of six months confinement to run concurrently with the sentence imposed on the first two counts of the information, but fined separately the sum of One Hundred ($100) Dollars, in addition to the fine imposed on each of the first two counts (R. pp. 11, 15).

The second question involved is:

> Are Section 4 (a) of the Emergency Price Control Act of 1942, and Revised Price Schedule No. 66 unconstitutional and void?

The United States Circuit Court of Appeals for the Sixth Circuit, in an opinion by Judge Allen, filed February 11, 1944, erroneously held all of the aforementioned statutes and regulations constitutional and valid (R. pp. 36-44).

II.

REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT.

(1) The questions involved (supra, this page) have never been passed upon by this Court, and they are constitutional questions of national importance.

(2) The decision of the United States Circuit Court of Appeals for the Sixth Circuit in this case is in apparent conflict with the decisions of this Court referred to in the brief attached hereto in support of this petition.

Wherefore, your petitioner prays that a writ of certiorari issue under the seal of this Court, directed to the United States Circuit Court of Appeals for the Sixth Circuit, commanding said Court to certify and send to this Court a full and complete transcript of the record and of the proceedings of the said United States Circuit Court of Appeals for the Sixth Circuit had in the case numbered and entitled on its Docket, No. 9522, Thomas H. O'Neal, Appellant, v. United States of America, Appellee, to the end that this cause may be reviewed and determined by this Court as provided for by the statutes of the United States; and that the judgment herein of said United States Circuit Court of Appeals for the Sixth Circuit be reversed by the Court, and have such further relief as to this Court may seem proper.

Dated March 10, 1944.

THOMAS H. O'NEAL,

By JOHN J. HOOKER,
1106 Nashville Trust Building,
Nashville 3, Tennessee,
Counsel for Petitioner.

B. H. HAGEY,
1206 Warner Building,
Nashville 3, Tennessee,

TYREE B. HARRIS III,
WALKER & HOOKER,
1106 Nashville Trust Building,
Nashville 3, Tennessee,
Of Counsel.